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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,162	12/19/2000	Robert T. Moton JR.	BS00-067	3986

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EXAMINER

DAVIS, TEMICA M

ART UNIT PAPER NUMBER

2681

DATE MAILED: 11/10/2003

[Handwritten number 2]

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,162

Applicant(s)

Moton, Jr. et al.

Examiner

Temica M. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 19, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-4, 10-13, 15, 16, 18-24, 27, 28 and 30-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Heinonen et al (Heinonen), U.S. Patent No. 6,418,308.

Regarding claims 1, 16, 35 and 47, Heinonen discloses system/method for conducting a survey using wireless devices located within a survey area served by a wireless communication network comprising: (a) a location server in communication the wireless communication network; (b) a wireless device characterized by a location, wherein the wireless device is in communication with the location server; and © a location system in communication with the wireless device and the location server, wherein the location server broadcasts a survey to the wireless device, wherein the location system generates a response containing location

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information pinpointing the location of the wireless device when the wireless device receives the survey, and wherein the location server uses the response to execute an action (col. 4, lines 1-41, col. 6, line 4-col. 7, line 24).

Regarding claim 2, Heinonen discloses the system of claim 1, wherein the wireless device is a wireless telephone (col. 4, lines 55-59).

Regarding claim 3, Heinonen discloses the system of claim 1, wherein the wireless device is an interactive pager (col. 4, lines 55-59).

Regarding claim 4, Heinonen discloses the system of claim 1, wherein the wireless device is a handheld computer (col. 4, lines 55-59).

Regarding claim 10, Heinonen discloses the system of claim 1, further comprising a memory accessible by the location server, wherein the memory storage comprises a database populated with a plurality of nodes, wherein each of the plurality of nodes is defined inherently by position coordinates (col. 6, lines 44-51).

Regarding claim 11, Heinonen discloses the system of claim 10, wherein the position coordinates comprise inherently a longitude and a latitude (col. 6, lines 44-51).

Regarding claim 12, Heinonen discloses the system of claim 1, wherein the location information comprises inherently position coordinates of the wireless device (col. 6, lines 44-51).

Regarding claim 13, Heinonen discloses the system of claim 12, wherein the position coordinates comprise inherently a longitude and a latitude (col. 6, lines 44-51).

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Regarding claim 15, Heinonen discloses the system of claim 12, wherein the response comprises inherently identity information (col. 7, lines 1-13).

Regarding claim 18, Heinonen discloses the method of claim 16, further comprising the step of delineating the survey area (col. 6, lines 4-14).

Regarding claim 19, Heinonen discloses the method of claim 18, wherein the step of delineating the survey area uses at least three nodes (col. 6, lines 44-51).

Regarding claim 20, Heinonen discloses the method of claim 18, wherein each of the at least three nodes is defined inherently by point coordinates (col. 6, lines 44-51).

Regarding claim 21, Heinonen discloses the method of claim 19, wherein the point coordinates comprise inherently a longitude and a latitude (col. 6, lines 44-51).

Regarding claim 22, Heinonen discloses the method of claim 16, wherein the location information comprises point coordinates (col. 6, lines 44-51).

Regarding claim 23, Heinonen discloses the method of claim 21, wherein the point coordinates comprise inherently a longitude and a latitude (col. 6, lines 44-51).

Regarding claim 24, Heinonen discloses the method of claim 16, further comprising the step of delineating the survey area using a node and a radius (col. 6, lines 4-14, 44-51).

Regarding claim 27, Heinonen discloses the method of claim 16, wherein the query comprises a question directed to a plurality of users of the plurality of wireless devices (col. 6, lines 4-14).

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Regarding claim 28, Heinonen discloses the method of claim 27, wherein the response further comprises an answer to the question provided by the plurality of users (col. 6, lines 4-14, 54-65).

Regarding claim 36, Heinonen discloses the method of claim 35, wherein the criterion comprises a match of the identity information and an affiliated wireless device (col. 6, line 51-col. 7, line 13).

Regarding claim 37, Heinonen discloses the method of claim 35, further comprising the steps of using the location information to verify that the wireless device is located within the dispatch area (col. 6, lines 4-65).

Regarding claim 38, Heinonen discloses the method of claim 35, further comprising the steps of using the identify information to verify that the wireless device is an affiliated wireless device (col. 6, lines 4-65).

Regarding claim 39, Heinonen discloses the method of claim 35, further comprising the step of delineating the dispatch area (col. 6, lines 44-51).

Regarding claim 40, Heinonen discloses the method of claim 39, wherein the step of delineating the dispatch area uses at least three nodes (col. 6, lines 44-51).

Regarding claim 41, Heinonen discloses the method of claim 40, wherein each of the at least three nodes is defined by point coordinates (col. 6, lines 44-51).

Regarding claim 42, Heinonen discloses the method of claim 41, wherein the point coordinates comprise a longitude and a latitude (col. 6, lines 44-51).

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Regarding claim 43, Heinonen discloses the method of claim 35, wherein the location information comprises point coordinates (col. 6, lines 44-51).

Regarding claim 44, Heinonen discloses the method of claim 43, wherein the point coordinates comprise a longitude and a latitude (col. 6, lines 44-51).

Regarding claim 45, Heinonen discloses the method of claim 35, further comprising the step of delineating the dispatch area uses a node and a radius (col. 6, lines 44-51).

Regarding claim 46, Heinonen discloses the method of claim 45, wherein the node comprises a longitude and a latitude (col. 6, lines 44-51).

Regarding claim 48, Heinonen discloses the method of claim 47, wherein the survey parameters comprise a plurality of times for broadcasting the plurality of queries (col. 6, lines 4-14).

Regarding claim 49, Heinonen discloses the method of claim 47, wherein the action comprises determining a distribution pattern for the wireless devices in the survey area (col. 6, lines 4-14).

Regarding claim 50, Heinonen discloses the method of claim 47, further comprising the step of delineating the survey area (col. 6, lines 4-14, 44-51).

Regarding claim 51, Heinonen discloses the method of claim 50, wherein the step of delineating the survey area uses at least three nodes (col. 6, lines 44-51).

Regarding claim 52, Heinonen discloses the method of claim 50, wherein the step of delineating the survey area uses a node and a radius (col. 6, lines 44-51).

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Regarding claim 53, Heinonen discloses the method of claim 47, wherein the survey area further comprises a plurality of sections (col. 6, lines 44-51).

Regarding claim 54, Heinonen discloses the method of claim 53, wherein the action comprises determining a distribution pattern of wireless devices in each of the plurality of sections (col. 6, lines 44-51).

Regarding claim 55, Heinonen discloses the method of claim 50, further comprising the step of delineating each of the plurality of sections uses at least three nodes (col. 6, lines 44-51).

Regarding claim 56, Heinonen discloses the method of claim 50, further comprising the step of delineating each of the plurality of sections using a node and a radius (col. 6, lines 44-51).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-9, 17 and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinonen.

Regarding claims 5-9, Heinonen discloses the system of claim 1 as described above. Heinonen, however, fails to specifically disclose how the mobile is located. The examiner

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contends, however, that the location determining means described in these claims are very well known in the art, and the examiner takes official notice as such.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Heinonen with the teachings of well known prior since such techniques of locating mobiles are widely used.

Regarding claim 17, Heinonen discloses the method of claim 16 as described above. Heinonen, however, fails to disclose verifying that the response is received from the wireless device.

The examiner contends however, that such a feature would have been obvious to a person of ordinary skill in the art at the time of invention in order to ensure that the survey was received.

Regarding claim 29, Heinonen discloses the method of claim 28 as described above. Heinonen, however, fails to disclose the answer to the survey being a null response.

The examiner contends however, that such a feature would have been obvious to a person of ordinary skill in the art at the time of invention depending on the type of question(s) asked.

Regarding claim 30, Heinonen discloses a method for conducting a survey using wireless devices within a survey area comprising the steps of: (a) delineating the survey area; (b) broadcasting a query to at least one wireless device (d) forming a response that comprises the device position information; (e) verifying the response is received from a wireless device that is located within the survey area; and (f) executing an action based on the response.

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Heinonen, however, fails to disclose determining the wireless devices position via at least three antennas, wherein each of the at least three antennas has antenna position coordinates; © generating device position coordinates for the at least one wireless device using the antenna position coordinates of the at least three antennas.

The examiner contends, however, that the location determining means described (i.e., triangulation) is very well known in the art, and the examiner takes official notice as such.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Heinonen with the teachings of well known prior since such a technique of locating mobiles is widely used.

Regarding claim 31, Heinonen as modified discloses the method of claim 30, wherein the response further comprises an input from a person using the wireless device (col. 6, lines 58-65).

Regarding claim 32, Heinonen as modified discloses the method of claim 31, wherein the input comprises inherently a numerical value (via keypad) (col. 6, lines 58-65).

Regarding claim 33, Heinonen as modified discloses the method of claim 31, wherein the input comprises an alphanumeric message (via keypad) (col. 6, lines 58-65).

Regarding claim 34, Heinonen as modified discloses the method of claim 31 as described. Heinonen, however, fails to disclose wherein the input comprises a voice message. The examiner contends, however, that voice responses are very well known in the art, and at the time of invention, such a feature would have been obvious to a person of ordinary skill in the art for

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the purpose of verbally giving a response during times when the user may not be able to use the keypad (such as while driving).

5. Claims 14, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinonen in view of Yost et al (Yost), U.S. Patent No. 6,560,442.

Regarding claims 14, 25 and 26, Heinonen discloses the system/method of claims 1 and 16 as described above. Heinonen, however, fails to disclose determining the number of people/wireless devices in a survey area.

In a similar field of endeavor, Yost discloses a system and method for profiling the location of mobile radio traffic in a wireless network.

Yost further discloses disclose determining the number of people/wireless devices in a survey area (col. 2, line 66-col. 3, line 11).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Heinonen with the teachings of Yost for the purpose of trying to alleviate congestion in a given area by determining if more resources are need for the area.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Crosby et al, U.S. Patent No. 6,628,928, discloses an Internet-based interactive radio system for use with broadcast radio stations.

Worthy et al, U.S. Patent No. 5,819,155, discloses an active system and method for remotely identifying RF broadcast stations.

Noreen et al, U.S. Patent No. 5,303,393, discloses an integrated radio satellite response system and method.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday from 7:00 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Sinh Tran, can be reached on (703) 305-4040.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service whose telephone number is (703)306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for any communications intended for entry).

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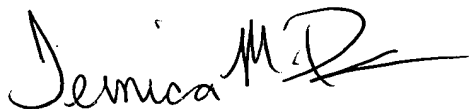
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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington.

VA., Sixth Floor (Receptionist).

TMD

November 3, 2003

A handwritten signature in black ink, appearing to read "Temica M. Davis", with a stylized flourish extending from the end.

**TEMICA M. DAVIS
PATENT EXAMINER**